IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

Crl.Rev.Pet.No. 425 of 2000()

CRA. NO.175/1998 of SESSIONS COURT, THRISSUR DT. 28.7.98.
C.C. NO.181/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, THRISSUR DT.28.4.2000

.....

REVN. PETITIONER: APPELLANT/ ACCUSED

BABU,
S/O.MURINGATHERI THOMAS,
ERUMAPPETTY VILLAGE, DESOM.

BY ADV. SRI.P.VIJAYA BHANU
SMT.MINI JOHN PAREMALIL

RESPONDENT: RESPONDENT: COMPLAINANT

STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.425 of 2000

DATED THIS THE 14th JUNE 2007

ORDER

The revision petitioner stands convicted for the offences under Sections 279, 337 and 304(A) IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.5,000/- and in default to undergo rigorous imprisonment for one month for the offence under Section 304 A I.P.C. He stands also sentenced to undergo three months each for the offences under Sections 279 and 337 IPC. The prosecution case is that on 26-2-1995 at about 5.30 p.m. the bus driven by the accused in a rash and negligent manner so as to endanger human life got capsized at a curve and one John, one of the passengers of the bus, died.

The evidence adduced in the matter consisted of the testimony of Pws.1 to 17, Exts.P1 to P10(a). Defence witness was examined as DW1. PW1, one of the injured, who rendered the F.I.S., has deposed with respect to the incident and in proof of Ext.P1. He has testified that the vehicle was proceeding at

high speed and it is on account of the high speed that the accident was occasioned. PW2, another passenger also sustained injuries in the accident has also testified that the bus was driven in over speed and in a rash and negligent manner. Himself, his wife and child sustained injuries. PW3, another person has also testified that the vehicle was driven in over speed. Pws.1 to 3 have also identified the accused as the driver of the vehicle. PW7, another injured, a lady has also testified that the vehicle was driven in an over speed. She has also identified the accused. PW.11, the Medical officer who issued Exts.P3 and P4 wound certificates and PW13, the Doctor who conducted the postmortem examination of the deceased have also testified and proved Ext.P2 postmortem report. The cause of death mentioned is the injuries sustained. PW14, the Joint R.T.O. who inspected the vehicle and issued Ext.P7 certificate has deposed that there was no defect to the break system and that there was no mechanical defect in the vehicle. The identity of the accused as the driver of the bus stands proved also by Ext.P10 trip sheet of the bus which was seized by Ext.P5 mahazar.

I find that the evidence of the prosecution witnesses stands not impeached. In the cross examination, no contradictions with respect to the previous statements have been brought out. Of course, one of the passengers was examined as DW1 at the instance of the defence and he has deposed that somebody called out that there is no break to the vehicle and passengers made a hue and cry and after sometime the vehicle overturned. I find that no credence can be given to the testimony of PW1 in view of the counterveiling evidence adduced at the instance of the prosecution. I find that the findings of the courts below did not call for interference. The conviction is confirmed.

Counsel for the revision petitioner has pleaded for leniency that the incident has taken place for more than 10 years ago and that the revision petitioner is right now employed and so far he has been facing the criminal proceedings . In the circumstances, the sentence under Section 304(A)IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.25,000/- to the legal representatives of the deceased John @ George and in default to undergo simple

imprisonment for six months. The revision petitioner is granted three months time to deposit the amount of compensation. No separate sentence is awarded for the rest of the offences. He shall appear before the Judicial First Class Magistrate -II, Thrissur on 20-8-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

Sd/-
K.R.UDAYABHANU, JUDGE

ks.

ORDER ON CRL.M.P. NO. 2454/2000 IN CRL.R.P.NO. 425/2000

DISMISSED.

14-6-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R.UDAYABHANU, J

CRL.R.P.NO.425 of 2000-A

ORDER

14-6-2007